

**BEST AVAILABLE COPY****REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

On page 2 of the office action, the Examiner rejected claims 1-2, 4, 8, 10-14, 16, 20, and 22-26 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,457,337 to Barrows.

In rejecting claim 1 on page 2 (and claim 13 on page 4), the Examiner found Barrows' metal projectile, 9 or 13, to be the cylindrical ballistic tracer platform of the present invention; he found Barrows' lead weight, 9-10, or 10, or 17, to be the integrated, inseparable tracer element, and "the combination of the cover at the front end of item 1 and item 8, 19" to be the shot holder of the present invention. The Examiner was then able to claim that Barrows' "tracer platform" does "fill the space between the shot holder and the propellant." The Examiner then found all of the remaining elements, generally, in Figures 1-4, including the generally concave cavity which acts as a gas seal upon ignition of the propellant.

The present invention is entirely different from the Barrows invention. The tracer platform disclosed in the application integrates four elements, the wad, a tracer element, a tracer projectile, and a gas seal, all in one integrated, inseparable, and structurally sound artifact. More to the point, applicants would argue that several claim elements of the present invention are not found in Barrows. Applicants were unable to find, in figures 1-4 of Barrows, a "generally concave cavity which acts as a gas seal upon ignition of the propellant." The cavity under the lead weight 10, 17 cannot act as a gas seal because Barrows fills it with a smoke composition 11. Further, Barrows' "tracer platform", which the Examiner has stated is found at 9 or 13, does not "hold" and "carry" an integrated

inseparable tracer element, because Barrows's "tracer platform" is the "tracer projectile or capsule", and it is held within the wad 8; after ignition, it "leaves its bore in the wad, impelled partly by its inertia and partly by the pressure of the expanding powder gases" (p. 1, ll. 105-107). Barrows' "tracer element", which the Examiner has stated is found at 9-10, or 10, or 17, is actually a lead weight, not a tracer element such as the one described in the present invention. (Barrows' "tracer element" seems to be the smoke composition found at 11.) Finally, Barrows' "tracer platform" does not fill the space between the shot holder and the propellant. Barrows' parts 8, 17 are not shot holders, but are wads. Barrows' wad "8 represents the powder wad, of felt or other fibrous material" (p. 1, ll. 69-71), which typically fills the space between the shot holder and propellant. The present invention does not claim a wad, but, instead, has a tracer platform which fills the space typically occupied by the wad. Nonetheless, for purposes of clarity, applicants have amended claim 1 and claim 13 to indicate that the tracer platform of the present invention fills the bore of the shell between the shot holder and the propellant. As amended, claims 1 and 13 are not anticipated by the Barrows reference, which has a tracer projectile disposed inside a cavity in the wad. As amended, claims 1 and 13 should be allowable over Barrows.

On page 3 of the office action, the Examiner rejected claims 2 and 14, referring to Barrows. Applicants have amended claim 1, upon which claim 2 depends, and claim 13, upon which claim 14 depends, so that they are allowable over Barrows; claims 2 and 14, therefore, should now be allowable as well.

On page 3 of the office action, the Examiner rejected claims 4 and 16, again referring to Barrows. Applicants have amended claim 1, upon which claim 4 depends, and claim 13, upon which claim 16 depends, so that they are allowable over Barrows; claims

4 and 16, therefore, should now be allowable as well.

On page 3 of the office action, the Examiner rejected claims 8 and 20, again referring to Barrows. Applicants have amended claim 1, upon which claim 8 depends, and claim 13, upon which claim 20 depends, so that they are allowable over Barrows; claims 8 and 20, therefore, should now be allowable as well.

On page 4 of the office action, the Examiner rejected claims 10 and 22, again referring to Barrows. Applicants have amended claim 1, upon which claim 10 depends, and claim 13, upon which claim 22 depends, so that they are allowable over Barrows; claims 10 and 22, therefore, should now be allowable as well.

On page 4 of the office action, the Examiner rejected claims 11 and 23, again referring to Barrows. Applicants have amended claim 1, upon which claim 11 depends, and claim 13, upon which claim 23 depends, so that they are allowable over Barrows; claims 11 and 23, therefore, should now be allowable as well.

On page 4 of the office action, the Examiner rejected claims 12 and 24, again referring to Barrows. Applicants have amended claim 1, upon which claim 12 depends, and claim 13, upon which claim 24 depends, so that they are allowable over Barrows; claims 12 and 24, therefore, should now be allowable as well.

On page 5 of the office action, the Examiner rejected claims 25 and 26, again referring to Barrows. Applicants would again point out that Barrows element 10 or 17 is not a tracer element at all, but a lead weight. Nonetheless, as pointed out previously, applicants have amended claim 1, upon which claim 25 depends, and claim 13, upon which claim 23 depends, so that they are allowable over Barrows; claims 11 and 23, therefore, should now be allowable as well.

On page 5 of the office action, the Examiner rejected claims 3 and 15 under 35 U.S.C. §103(a) as being unpatentable over Barrows, as applied to claim 2 or 13, and further in view of U.S. Patent No. 6,694,887 to Diller. Applicants have amended claim 1, upon which claim 3 depends, and claim 13, upon which claim 15 depends, so that they are allowable over Barrows; claims 3 and 15, therefore, are not obvious and should be allowable as well.

On page 5, the Examiner rejected claims 5 and 17 under 35 U.S.C. §103(a) as being unpatentable over Barrows, as applied to claim 1 or 13, and further in view of U.S. Patent No. 3,262,390 to Cowles. Applicants have amended claims 1 and 13, upon which claims 5 and 17, respectively, depend, so that they are allowable over Barrows. Therefore, claims 5 and 17 are not obvious, and should be allowable as well.

On page 6, the Examiner rejected claims 6 and 18 under 35 U.S.C. §103(a) as being unpatentable over Barrows as modified by Cowles *et al.* as applied to claims 5 or 17, and further in view of U.S. Patent No. 6,694,887 to Diller. Applicants have amended claims 1 and 13, upon which claims 5 and 17, respectively, depend, to be allowable over Barrows *et al.* Therefore, claims 5 and 17 should now be allowable, and claims 6 and 18, which depend from claims 5 and 17, respectively, are also not obvious, and should be allowable as well.

On page 6, the Examiner rejected claims 7 and 19 under 35 U.S.C. §103(a) as being unpatentable over Barrows as applied to claim 1 or 13, and further in view of U.S. Patent No. 4,841,866 to Miesner. Applicants have amended claims 1 and 13, upon which claims 7 and 19 respectively, depend, so to be allowable over Barrows. Therefore, claims 7 and 19 are not obvious, and should be allowable as well.

**BEST AVAILABLE COPY**

On page 5, the Examiner rejected claims 9 and 21 under 35 U.S.C. §103(a) as being unpatentable over Barrows as applied to claim 1 or 13, and further in view of FR Patent No. 2598213. Applicants would point out that nothing in the French patent suggests its combination with a tracer platform; instead, the French patent describes a rifle cartridge, apparently used for self-defense. In any event, applicants have amended claims 1 and 13, upon which claims 9 and 21, respectively, depend, to be allowable over Barrows. Therefore, claims 9 and 21 are not obvious, and should be allowable as well.

In light of the foregoing arguments, and upon entry of the amendments, allowance of claims 1 through 26 should be in order and is respectfully requested.

Date: March 1, 2006

Respectfully submitted,

  
\_\_\_\_\_  
Mary J. Gaskin

Patent Attorney for applicants  
Registration No. 30,381  
2170 Buckthorne Pl., Suite 220  
The Woodlands, TX 77380  
Phone: (281) 363-9121  
Fax: (281) 363-4066

cc: Mr. James Dunnam  
Mr. Mauricio Quintana

C:\A&G\Patents\dunnam\amdmt3